

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY DEWAYNE LEE TURNER,

Plaintiff,

v.

MICHAEL ULLERY, et al.,

Defendants.

No. 2:22-cv-0002 KJN P

ORDER

Plaintiff is a state prisoner, proceeding pro se. On July 11, 2022, plaintiff filed a “Notice of Submission of Documents” along with a summons, one USM-285 form, and two copies of a complaint. The complaint is not identified as an amended complaint, but the USM-285 form is completed for Dr. Deepthi Surineni, who is not named as a defendant in plaintiff’s original complaint herein.

Initially, plaintiff is advised that he should not file a notice of submission of documents form unless directed to do so by the court. At this time, the court uses an e-filing process with the U.S. Marshal’s office to accomplish service of process on defendants employed with the CDCR. Therefore, no submission of documents or USM-285 form is necessary unless ordered by the court.

Rule 15(a)(1) of the Federal Rules of Civil Procedure provides that:

A party may amend its pleading once as a matter of course within:

1 (A) 21 days after serving it, or

2 (B) if the pleading is one to which a responsive pleading is required,
3 21 days after service of a responsive pleading or 21 days after service
4 of a motion under Rule 12(b), (e), or (f), whichever is earlier.

5 Id. On May 31, 2022, the three named defendants filed an answer, and more than 21 days have
6 elapsed. Therefore, plaintiff may amend his pleading only by leave of court or by written consent
7 of the adverse party. See Fed. R. Civ. P. 15(a)(2). Plaintiff did not file a motion to amend or a
8 stipulation to amend the complaint signed by all parties. Thus, the filing must be stricken, and
9 this action will proceed on the complaint filed December 23, 2021. Because the proposed
10 complaint contains original declarations, the original will be returned to plaintiff, along with the
11 summons and USM-285 form which are not required.

12 In addition, the proposed complaint submitted by plaintiff was signed by plaintiff on
13 December 9, 2021. If plaintiff files a motion to amend, he must provide an amended complaint
14 clearly marked as an amended complaint and that bears a current signature.


15 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court is directed to:

16 1. Scan and docket plaintiff's July 11, 2022 complaint as a "Proposed Amended
17 Complaint;"

18 2. Return the summons, USM-285 form and original proposed amended complaint to
19 plaintiff, and

20 3. Strike the July 11, 2022 proposed amended complaint.

21 Dated: July 18, 2022

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23 KENDALL J. NEWMAN
24 UNITED STATES MAGISTRATE JUDGE

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